




J. Craig Whitley
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

IN RE:

***RICHARD WARREN FINDING and
JUANITA LEATHERMAN FINDING***

***Case No. 10-40125
Chapter 13***

ONEWEST BANK FSB,

ADVERSARY PROCEEDING

Plaintiff,

vs.

NO. 10-4033

**PEOPLES BANK; DAVID A. SIMPSON,
P.C., Substitute Trustee; GRADY I. INGLE
and/or ELIZABETH B. ELLS, Substitute
Trustee; RICHARD W. FINDING; and
JUANITA FINDING,**

Defendants.

ORDER GRANTING SUMMARY JUDGMENT

THIS CAUSE was heard by the undersigned United States Bankruptcy Judge upon Plaintiff's duly noticed Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 7056 of the Federal Rules of Bankruptcy Procedure, and the Court finds as follows:

There are no genuine issues of material facts as shown by the pleadings and evidence before the Court and pursuant to Rule 7056 of the Federal Rules of Bankruptcy Procedure, the Plaintiff is entitled to summary judgment in this adversary proceeding as a matter of law.

IT IS NOW, THEREFORE, ORDERED THAT:

1. Title to the property at 251 First Broad Drive, Bostic, NC 28018 (the "Property") is quieted in the name of Richard and Juanita L. Finding, subject to a valid first priority lien of Plaintiff OneWest Bank, F.S.B.

2. The OneWest lien and Deed of Trust recorded on October 29, 2007 in Book 982 at Page 1 of the Rutherford County Public Registry is a valid first-lien in the Property and holds first-lien priority over any lien in favor of Peoples Bank.

3. The lien and Deed of Trust of Peoples Bank recorded on August 21, 2006 in Book 914 at Page 301 of the Rutherford County Public Registry is not a valid lien on the Property as the lien should have been cancelled when the underlying debt was paid in full by the transaction through which the OneWest Deed of Trust was placed as a lien on the Property.

4. The Register of Deeds of Rutherford County is directed to record and index this Order in the names of the parties to this lawsuit.

**This Order has been signed electronically.
The judge's signature and court's seal appear at the
top of this Order.**

United States Bankruptcy Court